

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

JOSHUA KUHN,

Plaintiff,

v.

CIVIL ACTION NO. 3:22-0486

BETSY C. JIVIDEN;  
SUPERINTENDENT CARL ALDRIDGE;  
CHRISTOPHER FLEMING;  
JASON CASTO;  
JAMES BARKER;  
JENNIFER HENDERSON;  
VALERIE BAILEY;  
STEVE ALLEN; and  
LLOYD ERWIN,

Defendants.

**MEMORANDUM OPINION AND ORDER**


This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendations for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge submitted Findings of Fact on April 27, 2023 (ECF No. 30) and on July 17, 2023 (ECF No. 54) and recommended that the Court grant the motions to dismiss filed by Defendants Aldridge and Fleming (ECF Nos. 15, 36), dismiss the complaint, amended complaint, and second amended complaint (ECF Nos. 2, 32, 39) against the foregoing defendants, and remove them as defendants in this civil action. In addition, the Magistrate Judge recommended that the Court dismiss Defendant Betsy C. Jividen and remove her as a defendant in this action as she has not been served with process and because the complaint,

amended complaint, and second amended complaint fail to state a claim against her. No objections to the Magistrate Judge's findings and recommendations have been filed.

Accordingly, consistent with the findings and recommendations, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge and **GRANTS** the motions to dismiss filed by Defendants Aldridge and Fleming (ECF Nos. 15, 36), **DISMISSES** the complaint, amended complaint, and second amended complaint (ECF Nos. 2, 32, 39) against the foregoing defendants, and **REMOVES** them as defendants in this civil action. In addition, the Court **DISMISSES** Defendant Betsy C. Jividen and **REMOVES** her as a defendant in this action as she has not been served with process and because the complaint, amended complaint, and second amended complaint fail to state a claim against her.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: August 7, 2023

  
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ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE